




CLOSED CASE SUMMARY

ISSUED DATE: MAY 26, 2023

FROM: DIRECTOR GINO BETTS 
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2022OPA-0412

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties 10. Employees Shall Strive to be Professional	Not Sustained - Unfounded (Expedited)
# 2	15.410 - Domestic Violence Investigation 15.410-POL 5. The Department is Committed to a Thorough Primary Investigation of Domestic Violence Incidents (See 15.180-Primary Investigations)	Not Sustained - Training Referral (Expedited)

Named Employee #2

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties 10. Employees Shall Strive to be Professional	Not Sustained - Unfounded (Expedited)
# 2	15.410 - Domestic Violence Investigation 15.410-POL 5. The Department is Committed to a Thorough Primary Investigation of Domestic Violence Incidents (See 15.180-Primary Investigations)	Not Sustained - Unfounded (Expedited)

This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections are written in the first person.

EXECUTIVE SUMMARY:

The Complainant alleged Named Employee #1 (NE#1) and Named Employee #2 (NE#2) were unprofessional and failed to conduct a thorough investigation of a domestic violence (DV) incident in which the Complainant was the suspect.

ADMINISTRATIVE NOTE:

This case was designated as an Expedited Investigation. This means that OPA, with the Office of Inspector General's review and approval, believed that it could reach and issue recommended findings based solely on its intake investigation and without interviewing the involved employees. As such, OPA did not interview the involved employees in this case.



SUMMARY OF INVESTIGATION:

The Complainant contacted OPA by email to file a complaint against NE#1 and NE#2. NE#1 and NE#2 investigated a DV incident in which Community Member #1 (CM#1)—the daughter of the Complainant’s ex-husband—accused the Complainant of assaulting her. the Complainant alleged NE#1 and NE#2 were lazy and unprofessional when they failed to, (1) look at the scene where the alleged assault took place, (2) provide the Complainant with due process when they didn't contact her, (3) confirm the correct name for the alleged victim of the DV incident (4) verify the alleged victim's injury, which was wrapped in a scarf, not a sling, and (5) failed to verify the familial relationship between the alleged DV victim and the Complainant.

OPA opened an intake investigation. During the intake investigation, OPA reviewed the Computer Aided Dispatch (CAD) Call Report, Incident Report, and Body Worn Video (BWV). OPA contacted the Complainant but was unable to interview her because her criminal defense attorney advised the Complainant against providing a statement. OPA finds by a preponderance of the evidence that the following occurred.

On June 24, 2022, both named employees were dispatched to a DV call. The call remarks noted that the 9-1-1 caller’s friend was arguing with her ex-stepmother and that the ex-stepmother hit the caller’s friend with a door. The CAD call remarks identified the Complainant as the suspect and CM#1 as the victim. NE#2 arrived on the scene first and encountered the 9-1-1 Caller (Community Member #2 or CM#2) and CM#1. The Complainant was no longer at the scene. CM#1’s right arm was in a sling.



CM#1’s right arm in a sling

CM#2 told NE#2 that he and CM#1 had gone for a walk and, on returning, CM#1 and the Complainant started to argue because the Complainant had changed the locks to the residence. CM#2 stated CM#1 had lived in the residence for at least a year. CM#2 stated CM#1 tried to enter the residence, but the Complainant used the door to push CM#1 out. CM#2 stated the Complainant slammed the door against CM#1 so hard that it caused CM#1 to “get air.” CM#2 stated the door hit an arm that CM#1 had previously injured. CM#1 told both officers the same relevant facts as CM#2.

Both named employees then walked over to the residence to try to open the residence door with CM#1’s keys, none of which unlocked the door.



NE#1 wrote an Incident Report later in the day on June 24, 2022. The Incident Report was consistent with the events recorded on CAD and BWV, which were recited above. NE#1 documented attempting to call the Complainant in the Incident Report, although this was neither confirmed nor refuted by the BWV.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

5.001 - Standards and Duties 10. Employees Shall Strive to be Professional

The Complainant alleged NE#1 and NE#2 were unprofessional.

SPD Policy 5.001-POL-10 requires that SPD employees “strive to be professional.” The policy further instructs that “employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers” whether on or off duty. SPD Policy 5.001-POL-10.

The Complainant’s allegation that NE#1 and NE#2 were unprofessional was premised on the allegation that they were “lazy.” In contrast to the Complainant’s allegations, OPA was unable to identify any obvious lack of effort on the part of either named employee. The officers contacted both the putative victim and eyewitness and took statements from both. The officers also checked the door at issue, confirmed CM#1s keys no longer opened the door, and NE#2 walked to check the back door area of the residence.

The Complainant was not on scene when the officers arrived and so was not immediately available to provide a statement. NE#1 documented attempting to call the Complainant without success. OPA did not confirm this as it was not recorded on BWV. However, policy only requires statements from victims during DV investigations unless the reported crime would be a felony, in which case witness statements are also mandatory. There is not requirement in policy that an officer investigating a DV situation take a statement from a suspect.

Accordingly, OPA recommends this allegation be Not Sustained – Unfounded (Expedited).

Recommended Finding: **Not Sustained - Unfounded (Expedited)**

Named Employee #1 - Allegation #2

15.410 - Domestic Violence Investigation 15.410-POL 5. The Department is Committed to a Thorough Primary Investigation of Domestic Violence Incidents (See 15.180-Primary Investigations)

The Complainant alleged NE#1 and NE#2 did not conduct a thorough investigation and had inaccuracies in their report.

SPD Policy 15.410-POL-5 reaffirms the Department’s commitment to a thorough primary investigation of domestic violence incidents. In addition to the requirements set forth in SPD Policy 15.410-POL-3, this section of the policy also requires that officers to fully comply with the requirements outlined in SPD Policy 15.180 and tasks detailed in SPD Tasks 15.410-TSK-1 and 15.410-TSK-2. Finally, this policy requires officers responding to domestic violence incidents to, (1) “attempt to obtain the domestic violence history of the involved suspect,” (2) “complete the Domestic Violence Supplement,” and (3) “use the Sworn Affirmation...when taking a statement from a victim or witness.” SPD Policy 15.410-POL-5.



The Complainant alleged the officers' investigation was deficient in several specific respects. First, the Complainant alleged that "had the officers walked to the door" they would have seen it would have been impossible to push anyone with their shoulder through the door. Both NE#1 and NE#2 walked to the door in question, which was recorded on BWV. OPA was unable to discern any reason it would have been impossible to push someone through the door with a shoulder. Second, the Complainant stated neither officer called her. NE#1 documented that he did call the Complainant but was unable to reach her. In any event, as discussed above at Named Employee #1, Allegation #1, contacting the Complainant was not required under Policy. Third, the Complainant stated CM#1 lied about her name. The difference in the names alleged by the Complainant was minor—similar to the difference between the names "Patrice" versus "Patricia," by way of example. Moreover, BWV confirmed that NE#1 recorded the name as CM#1 provided it. Fourth, the Complainant alleged CM#1 lied about having a broken clavicle. BWV recorded both CM#1 and CM#2 telling the officers that CM#1 injured her shoulder. Also, CM#1 was wearing a sling and complaining of an internal injury. Neither officer would have any logical reason to question CM#1 further about this account. Fifth, the Complainant took issue with being referred to as CM#1's "mother-in-law." CM#2 identified the Complainant as CM#1's mother-in-law and CM#1 did not correct this. Moreover, the Complainant appeared to have been either married or formerly married to CM#1's father and, due to their living arrangement, this would have been categorized as a DV situation regardless. Sixth, the Complainant alleged CM#1 was in a "scarf" not a "sling." This allegation was demonstrably false based on the BWV.

Although OPA noted some deviations from SPD Policy 15.410—such as NE#1 not specifically completing a DV supplement, obtaining a DV history, or using a sworn affirmation for victim and witness statements—none of these deficiencies were substantial enough to prevent the City Attorney's Office from filing this case and, overall, NE#1 and NE#2 appeared to otherwise conduct a thorough investigation of this alleged misdemeanor assault. OPA finds these limited deficiencies are best addressed by a training referral for NE#1—the primary officer—a he was responsible for ensuring the proper documentation of this investigation. Moreover, NE#1 has no prior disciplinary history related to this or similar allegations. This allegation against NE#2, the backing officer, is unfounded.

Accordingly, OPA recommends this allegation be Not Sustained – Training Referral (Expedited).

- **Training Referral:** NE#1's chain of command should discuss OPA's findings with NE#1, review SPD Policy 15.410-POL-5 with NE#1, and provide any further retraining and counseling that it deems appropriate. The retraining and counseling conducted should be documented, and this documentation should be maintained in Blue Team.

Recommended Finding: **Not Sustained - Training Referral (Expedited)**

Named Employee #2 - Allegation #1

5.001 - Standards and Duties 10. Employees Shall Strive to be Professional

For the reasons set forth above at Named Employee #1, Allegation #1, OPA recommends this allegation be Not Sustained – Unfounded (Expedited).

Recommended Finding: **Not Sustained - Unfounded (Expedited)**



Named Employee #2 - Allegation #2

15.410 - Domestic Violence Investigation 15.410-POL 5. The Department is Committed to a Thorough Primary Investigation of Domestic Violence Incidents (See 15.180-Primary Investigations)

For the reasons set forth above at Named Employee #1, Allegation #2, OPA recommends this allegation be Not Sustained – Unfounded (Expedited).

Recommended Finding: **Not Sustained - Unfounded (Expedited)**